

From: Brent Johnson
To: Scott Hennessy
Date: 9/6/00 2:14PM
Subject: Re: Trust Accounts

During the pendency of the bankruptcy the money is the property of the bankruptcy estate and controlled by the bankruptcy trustee. (Although there might be an exception to this if we have had the money for more than 90 days prior to the bankruptcy filing). We could release the money to the trustee, or wait for directions from the trustee or debtor as to what to do with it. If a bankruptcy discharge is granted, the money is no longer in the control of the trustee. Ownership of the money may be dependent on the outcome of the bankruptcy proceeding (but will generally be with the debtor) so it might be best to wait and see what the parties do, and turn it over to unclaimed property if nothing is done.

>>> Scott Hennessy 08/29/00 04:45PM >>>

Here is a new trust category for the accounting manual, which needs your opinion.

When money has been posted in a Civil Case but not ordered to be paid yet and the Defendant files for bankruptcy. We now have money sitting in the case and don't know what to do with it.

What can you tell us with regards to the money during the pendency of the bankruptcy as well as if a bankruptcy was granted?

David Rogers - Re: Trust Question

From: Brent Johnson
To: Scott Hennessy
Date: 6/20/2001 11:14 AM
Subject: Re: Trust Question

there are a lot of variables with bankruptcy, but if you want a good general rule you are generally safe in sending the money back to the defendant, if the money was deposited into court within 90 days or less before the bankruptcy was filed. It may be okay to hold onto the money for about 30 to 60 days to see if any claims will be filed on the money, but that is not required.

>>> Scott Hennessy 06/11/01 10:41AM >>>
Another Question....

You may have already discussed this somewhere in the past, but I need to ask again.

We have been paid money (generally garnishment money) after which receiving, a notice of bankruptcy has been filed. Sometimes, we hear back and sometimes we do not. We have often sent money to trustees who have returned it. Sometimes, attys for plaintiffs will tell us to send it back to the defendant and sometimes defendants will ask for it back after the bankruptcy has been granted.

Well, we have money that will sit forever because we have had no requests to send it anywhere. In many cases we never hear anything the case again (maybe because the bankruptcy was granted).

Can you give a general opinion on what and when we should do with money that was received before a bankruptcy was filed. Like how long should we hold on to it if we hear nothing. And are we obligated to anyone to return it to them? Should it always just go back to the defendant who was, say garnished, because we've heard nothing and can assume the bankruptcy was granted and therefore plaintiffs can't claim this money?

Do you get my question or do I make totally no sense at all?

Thanks,

Scott